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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------|
| 10/824,198 | 04/14/2004 | Aric Benedict | 3308-053 | 5865 |
| 4678 | 7590 | 05/31/2005 | | |
| MACCORD MASON PLLC 300 N. GREENE STREET, SUITE 1600 P. O. BOX 2974 GREENSBORO, NC 27402 | | | EXAMINER CRAWFORD, GENE O | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3651 | |

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,198

Applicant(s)

BENEDICT ET AL.

Examiner

Gene O. Crawford

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 20-23, 27-35, 37 and 45-47 is/are rejected.
- 7) ☒ Claim(s) 11, 13-19, 24-26, 36, 38-44 and 48-50 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/14/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,759,594 to Kleboe et al.

The belt tension assembly capable of being used for a conveyor having at least one conveyor belt and a pair of opposed rollers disclosed by Kleboe et al. includes all the claimed features and in particular includes: a roller support 62 connected to a roller 72; a roller support rod 76 for movably connecting the roller support to the frame; a roller support rod spring 82 between the support rod and the frame 54; a spring adjustment assembly 80; and the spring 82 being a compression spring.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10, 12, 20, 21, 27-35, 37 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotter et al. in view of Kleboe et al.

The conveyor system disclosed by Cotter et al. includes: **(claims 1, 27)** a cantilevered frame 210 having at least one conveyor belt 230; **(claims 2, 3, 28)** an upstream accumulator 112, 212 including a frame; at least one belt; at least one pair of opposed rollers and a motor; **(claims 4, 29)** an accumulator control system (column 8, line 64 thru column 9, line 27); **(claims 5, 30)** package presence detectors 124; **(claims 6, 31)** the accumulator control system including an interface to the primary conveyor (column 8, line 64 thru column 9, line 27); **(claims 7, 12, 32, 36)** the cantilevered frame including a base 214 and a trapezoidal cantilevered deck comprised of rollers attached to the base 214; **(claims 8, 33)** the base being lazy L-shaped; **(claims 9, 10, 34, 35)** the base including a vertical support wall 216 including a horizontal deck (figure 10); and **(claims 20, 21, 45, 46)** the cantilevered frame including a belt drive 224.

Cotter et al. does not disclose a belt tension assembly attached to the conveyor frame. However, Kleboe et al. discloses the broad teaching of providing a conveyor, including a plurality of conveyor belts each having a pair of rollers, with a tension assembly including a roller support 62 connected to a roller 72; a roller support rod 76 for movably connecting the roller support to the frame; a roller support rod spring 82 between the support rod and the frame 54; a spring adjustment assembly 80; and the spring 82 being a compression spring. It would have been obvious to one of ordinary skill in the art to provide the cantilevered conveyor disclosed by Cotter et al. with a tension assembly to facilitate keeping the belts under proper tension and allowing for easy replacement of individual belts as taught by Kleboe et al.

Allowable Subject Matter

5. Claims 11, 13-19, 24-26, 36, 38-44 and 48-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: a conveyor system having a cantilevered conveying belt and a tension assembly including the unique features of (i) 'a nut bar and a plurality of fasteners for attaching the cantilevered deck to the horizontal deck mounting surface'; (ii) 'the cantilevered deck formed of a plurality of extruded tubes'; (iii) 'the cantilevered frame including a support arm having one end selectively moveable to the cantilevered deck'; and (iv) 'the spring adjustment assembly including a first fixed spring stop and a second moveable spring stop and actuator for adjusting the second spring stop' all in combination with the rest of the claim language is not taught or fairly suggested by the prior art.

Conclusion

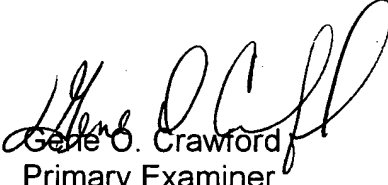
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are cited to show the art with respect to endless conveyor belts having tension assemblies: Hilliard et al., Agarwal et al., and Muntener.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene O. Crawford whose telephone number is 571/272-6911. The examiner can normally be reached on Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571/272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gene O. Crawford
Primary Examiner
Art Unit 3651
